

## Environmental Protection Agency

§ 35.750

limitation shall not apply to funds allotted to Indian Tribes.

[53 FR 37409, Sept. 26, 1988]

### §35.465 Indian Tribes.

(a) The Regional Administrator will not award initial section 1443(b) funds to an Indian Tribe unless:

(1) EPA has determined that the Indian Tribe meets the requirements of 40 CFR part 145 subpart E.

(2) The applicant has an Underground Water Source Protection program or agrees to establish one within four years of the initial award and agrees to assume primary enforcement responsibility within this period.

(b) The Regional Administrator shall not give a continuation award to any Indian Tribe unless the Tribe can demonstrate reasonable progress towards assuming primary enforcement responsibility within the four-year period.

(c) After the four-year period expires, the Regional Administrator shall not award section 1443(b) funds to an Indian Tribe unless the Tribe has assumed primary enforcement responsibility.

[53 FR 37409, Sept. 26, 1988, as amended at 59 FR 13817, Mar. 23, 1994]

### HAZARDOUS WASTE MANAGEMENT (SECTION 3011)

#### §35.500 Purpose.

Section 3011(a) of the Solid Waste Disposal Act, as amended, authorizes assistance to States (as defined in section 1004 of the Act) for the development and implementation of authorized State hazardous waste management programs. Associated program regulations are found in 40 CFR parts 122, subparts A and B; 123, subparts A, B, and F; 124, subparts A and B; and 260-266.

#### §35.505 Maximum Federal share.

The Regional Administrator may provide up to seventy-five percent of the approved work program costs.

#### §35.510 Limitations.

The Regional Administrator will not award section 3011(a) funds in a State with interim or final hazardous waste authorization unless the applicant is

the lead agency designated in the authorization agreement.

### PESTICIDE ENFORCEMENT (SECTION 23(A)(1))

#### §35.550 Purpose.

Section 23(a)(1) of the Federal Insecticide, Fungicide, and Rodenticide Act authorizes assistance to States (as defined in section 2 of the Act) and Indian tribes to implement pesticide enforcement programs. Associated program regulations are found in 40 CFR parts 162, 165-167, 169-170, and 172-173 and 19 CFR part 12.

#### §35.555 Maximum Federal share.

The Regional Administrator may provide up to one hundred percent of the approved work program costs.

### PESTICIDE APPLICATOR CERTIFICATION AND TRAINING (SECTION 23(A)(2))

#### §35.600 Purpose.

Section 23(a)(2) of the Federal Insecticide, Fungicide, and Rodenticide Act authorizes assistance to States (as defined in section 2 of the Act) and Indian tribes to implement programs to train and certify applicants of restricted use pesticides. Associated program regulations are found in 40 CFR parts 162 and 170-171.

#### §35.605 Maximum Federal share.

The Regional Administrator may provide up to fifty percent of the approved work program costs.

### NONPOINT SOURCE MANAGEMENT (SECTIONS 205(j)(5) AND 319(h))

#### §35.750 Purpose.

Sections 319 and 518 of the Clean Water Act authorize nonpoint source management assistance to States, including eligible Indian Tribes. Under section 319(h), grants may be awarded for the development of nonpoint source management programs, using funds reserved under section 205(j)(5) of the Act, and for the implementation of EPA-approved management programs using funds reserved under section 205(j)(5) or funds appropriated under section 319. Under section 319(i), grants may be awarded to carry out ground-

water quality protection activities that will advance the implementation of a comprehensive approved nonpoint source management program.

[54 FR 14358, Apr. 11, 1989, as amended at 59 FR 13817, Mar. 23, 1994]

**§ 35.755 Awards to Indian Tribes.**

(a) No grants for the development of an approved nonpoint source management program will be awarded to an Indian Tribe unless the Regional Administrator determines that the Tribe meets the requirements set forth at 40 CFR 130.6(d).

(b) No funds for the implementation of an approved nonpoint source management program will be awarded to an Indian Tribe unless:

(1) The Regional Administrator determines that the Indian Tribe meets the requirements set forth at 40 CFR 130.6(d).

(2) The Tribe agrees to:

(i) Maintain its aggregate expenditures from all other sources for programs controlling pollution from nonpoint sources and improving the quality of navigable waters within the Tribe's jurisdiction at or above the average levels of such expenditures in the fiscal years 1985 and 1986;

(ii) Limit administrative costs for services provided and charged against activities and programs carried out with a grant under section 319(h) to no more than 10 percent of the amount of the grant in any year, except that costs of implementing enforcement and regulatory activities, education, training, technical assistance, demonstration projects, and technology transfer programs are not subject to this limitation; and

(iii) Provide a matching share in accordance with 40 CFR 35.760;

(iv) Use such funds for financial assistance to persons only to the extent that such assistance is related to the costs of demonstration projects.

(v) Report to the Administrator on an annual basis concerning (A) its progress in meeting the schedule of milestones submitted under section 319(b)(2)(C) of the Act and (B) to the extent that appropriate information is available, reductions in nonpoint source pollutant loading and improvements in water quality for those navi-

gable waters or watersheds within the jurisdiction of the Tribe which were identified under section 319(a)(1)(A) of the Act resulting from implementation of the management program.

(c) No funds to carry out ground-water protection activities under section 319(i) of the Act will be awarded to an Indian Tribe unless:

(1) The Regional Administrator determines that the Tribe meets the requirements for treatment as a State in accordance with 40 CFR 130.6(d) and 130.15; and

(2) The Tribe agrees to provide a matching share in accordance with 40 CFR 35.760.

(d) The Regional Administrator will not give a nonpoint source management continuation award to any Indian Tribe unless the Tribe shows satisfactory progress in meeting its negotiated milestones and goals.

[54 FR 14359, Apr. 11, 1989, as amended at 59 FR 13817, Mar. 23, 1994]

**§ 35.760 Maximum Federal share.**

(a) The Regional Administrator may provide up to 100 percent of approved work program costs for the development of a nonpoint source management program.

(b) Except as provided in paragraph (c) or (d) of this section, the Regional Administrator may provide to an Indian Tribe up to 60 percent of approved nonpoint source management implementation program costs, and 50 percent of approved ground-water protection program costs, on condition that the non-Federal share is provided from non-Federal sources.

(c) The Regional Administrator may increase the maximum Federal shares upon application and demonstration by the Tribe that it does not have adequate funds (including Federal funds authorized by statute to be used for matching purposes, tribal funds or in-kind contributions) to meet the required match. In no case shall the Federal share be greater than 90 percent.

(d) In any fiscal year, the amount of assistance awarded under section 319 of the Act to any one Indian Tribe treated as a State shall not exceed 15 percent of the section 319(h) reserve for Tribes established under § 35.115(e).